



BOARD OF PAROLE HEARINGS



**ADMINISTRATIVE DIRECTIVE NO: 2013-07
(REVISED DECEMBER 21, 2015)**

SUBJECT: GUIDANCE ON PAROLE CONSIDERATION HEARINGS FOR YOUTH OFFENDERS

INTRODUCTION

This directive provides guidance on conducting parole consideration hearings for qualified youth offenders under Penal Code section 3051.

LEGAL AUTHORITY

Penal Code section 3051, subdivision (f)(1), directs that, "In assessing growth and maturity, psychological evaluations and risk assessment instruments, if used by the board, shall be administered by licensed psychologists employed by the board and shall take into consideration the diminished culpability of juveniles as compared to that of adults, the hallmark features of youth, and any subsequent growth and increased maturity of the individual."

Penal Code section 4801, subdivision (c), further directs that, "When a prisoner committed his or her controlling offense as defined in subdivision (a) of Section 3051, prior to attaining 23 years of age, the board, in reviewing a prisoner's suitability for parole pursuant to Section 3041.5, shall give great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the prisoner in accordance with relevant case law."

When enacting **Penal Code sections 3051, subdivisions (f)(1) and 4801(c)**, the Legislature specifically found and declared that "as stated by the United States Supreme Court in *Miller v. Alabama* (2012) 183 L.Ed.2d 407, 'only a relatively small proportion of adolescents' who engage in illegal activity 'develop entrenched patterns of problem behavior,' and that 'developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds,' including 'parts of the brain involved in behavior control.' The Legislature recognizes that youthfulness both

lessens a juvenile's moral culpability and enhances the prospect that, as a youth matures into an adult and neurological development occurs, these individuals can become contributing members of society. The purpose of this act is to establish a parole eligibility mechanism that provides a person serving a sentence for crimes that he or she committed as a juvenile the opportunity to obtain release when he or she has shown that he or she has been rehabilitated and gained maturity, in accordance with the decision of the California Supreme Court in *People v. Caballero* (2012) 55 Cal.4th 262 and the decisions of the United States Supreme Court in *Graham v. Florida* (2010) 560 U.S. 48, and *Miller v. Alabama* (2012) 183 L.Ed.2d 407. Nothing in this act is intended to undermine the California Supreme Court's holdings in *In re Shaputis* (2011) 53 Cal.4th 192, *In re Lawrence* (2008) 44 Cal.4th 1181, and subsequent cases. It is the intent of the Legislature to create a process by which growth and maturity of youthful offenders can be assessed and a meaningful opportunity for release established."

In the event parole is denied, **Penal Code section 3051, subdivision (g)**, states that, "If parole is not granted, the board shall set the time for a subsequent youth offender parole hearing in accordance with paragraph (3) of subdivision (b) of Section 3041.5 (Marsy's Law). In exercising its discretion pursuant to paragraph (4) of subdivision (b) and subdivision (d) of Section 3041.5 (Marsy's Law), the board shall consider the factors in subdivision (c) of Section 4801."

DIRECTIVE

At a parole consideration hearing for a qualified youth offender, all of the following shall occur:

- (1) In reviewing a qualified youth offender's suitability for parole, the hearing panel shall give great weight to the diminished culpability of youth offenders, the hallmark features of youth, and any subsequent growth and increased maturity of the youth offender in accordance with relevant case law;
- (2) If parole is not granted, the hearing panel shall set the time for a subsequent parole consideration hearing for the youth offender to occur in fifteen, ten, seven, five or three years in accordance with Marsy's Law; and
- (3) When reviewing a petition to advance pursuant to subdivision (d) of Penal Code section 3041.5 or conducting an administrative review pursuant to subdivision (b)(4) of Penal Code section 3041.5, the hearing officer shall consider the diminished culpability of youth offenders, the hallmark features of

youth, and any subsequent growth and increased maturity of the youth offender.

This Administrative Directive shall take effect immediately. If you have any questions concerning the contents of this Administrative Directive please contact the BPH Legal Division at (916) 324-7604.

APPROVED BY:	 _____ JENNIFER P. SHAFFER Executive Officer, BPH	DATE: <u>12/23/15</u>
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